

AMENDED IN SENATE JULY 29, 1998
AMENDED IN SENATE JULY 9, 1998
AMENDED IN SENATE JUNE 22, 1998
AMENDED IN ASSEMBLY MAY 27, 1998
AMENDED IN ASSEMBLY MAY 22, 1998
AMENDED IN ASSEMBLY APRIL 14, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2041

**Introduced by Assembly Members Bustamante,
Villaraigosa, and Pacheco
(Coauthors: Assembly Members Baca, Cardenas, Havice,
Machado, Scott, and Wayne)**

February 18, 1998

An act to amend ~~Sections 60119 and 60248 of, to add Sections 60240.7, 60246.3, and 60246.5 to, and Section 60119 of, to add Section 60240.7 to,~~ to add the heading of Article 7 (commencing with Section 60119) to Chapter 1 of Part 33 of, to ~~repeal Sections 60117, 60118, and 60247 add and repeal Chapter 3.5 (commencing with Section 60450) of Part 33 of, to repeal Sections 60117 and 60118 of,~~ and to repeal the heading of Article 7 (commencing with Section 60117) of Chapter 1 of Part 33 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2041, as amended, Bustamante. Education: textbooks: State Instructional Materials Fund.

(1) Existing law, known as the Pupil Textbook and Instructional Materials Incentive Program Act, requires that, commencing with the 1994–95 fiscal year, as a condition for eligibility for funding available for purposes of the program, the governing board of a school district hold a public hearing or hearings regarding the sufficiency of textbooks or instructional materials for each pupil and determine whether each school in the district has sufficient textbooks and instructional materials. The Pupil Textbook and Instructional Materials Incentive Program Act also requires that, if the governing board of a school district finds that there are insufficient textbooks or instructional materials, or both, the governing board take any action, except an action that would require reimbursement by the Commission on State Mandates, to alleviate these insufficiencies within 2 years from the date that the determination is made.

This bill would delete the entitling of these provisions as the Pupil Textbook and Instructional Materials Incentive Program Act. Commencing with the 1998–99 fiscal year, the bill would impose a state-mandated local program by reducing the period during which these insufficiencies are to be addressed by the governing board of a school district from 2 years to 60 days. ~~The bill would, only in a fiscal year when the Controller has transferred from the General Fund to the State Instructional Materials Fund at least the amount required to be transferred by the bill and described in (3) below, authorize the Superintendent of Public Instruction to withhold 1% of an amount of revenue limit funds that would otherwise be apportioned to the school district for that school district's annual administrative funding that does not relate to instructional programs until the school district has complied with the requirements of the bill.~~

(2) Existing law requires each county superintendent of schools to provide for an annual audit of all funds under his or her jurisdiction and control and the governing board of each school district to either provide for an audit of the books and

accounts of the school district or to make arrangements with the county superintendent of schools for that auditing.

This bill would impose a state-mandated local program by requiring this audit to include an audit of the extent of compliance with this bill. The bill would require the Superintendent of Public Instruction to review these audits to ascertain whether prescribed provisions of the bill have been complied with. If the superintendent finds that the provisions have not been *substantially* complied with, the superintendent, only in a fiscal year when the ~~Controller has transferred from the General Fund to the State Instructional Materials Fund at least the amount required to be transferred by the bill and described in (3) below~~ *amount of money from the General Fund allocated for the purchase of textbooks and other instructional materials exceeds \$40 per unit of statewide average daily attendance*, would be required to ~~withhold 1% of the amount of the revenue limit funds that otherwise would be apportioned to the school district until the school district has complied~~ *purchase and deliver instructional materials to schoolsites. The bill would require the Superintendent of Public Instruction to deduct costs for these materials and a reasonable administrative cost from apportionments to the noncompliant school districts and county offices of education.*

(3) Existing law establishes the State Instructional Materials Fund as a means of annually funding the acquisition of instructional materials as required by the California Constitution and continuously appropriates all money in that fund. ~~Existing law also requires the Controller, during each fiscal year, commencing with the 1983-84 fiscal year, to transfer the amount of \$21.18 per pupil in the public elementary schools during the preceding fiscal year, and the amount of \$14.41 per pupil enrolled in grades 9 to 12, inclusive, in the prior fiscal year, from the General Fund to the State Instructional Materials Fund.~~

This bill would ~~instead provide~~ *require* that the Controller, during each fiscal year, commencing with the 1999-2000 fiscal year, transfer from the General Fund to the State Instructional Materials Fund the amount of \$77.50 per pupil in the average daily attendance in the public elementary and secondary schools during the preceding fiscal year, thereby

~~making an appropriation. The bill would require each school district and county office of education receiving funds under this provision to certify that prescribed requirements have been complied with relating to instructional materials obtained with these funds~~ *State Department of Education apportion funds to school districts on the basis of an equal amount per pupil enrolled in public elementary schools and high schools for the purpose of purchasing instructional materials in the core curriculum that are aligned to academic standards adopted by the State Board of Education for pupils in kindergarten and grades 1 to 12, inclusive, and that meet prescribed requirements. The bill would appropriate to the Superintendent of Public Instruction for allocation to school districts \$250,000,000 from the General Fund for the purchase of standards-based instructional materials in each of the fiscal years from 1999–2000 to 2001–02, inclusive. The bill would require that the appropriation be included in the amounts appropriated by the state in the 1999–2000, 2000–01, or 2001–02 fiscal year for the purpose of meeting the state’s minimum funding obligation to school districts and community college districts under Section 8 of Article XVI of the California Constitution for that fiscal year.*

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) The bill would declare that it would become operative on July 1, 1998, or on the date that it is chaptered, whichever occurs last.

(6) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Article 7 (commencing
2 with Section 60117) of Chapter 1 of Part 33 of the
3 Education Code is repealed.

4 SEC. 2. Section 60117 of the Education Code is
5 repealed.

6 SEC. 3. Section 60118 of the Education Code is
7 repealed.

8 SEC. 4. The heading of Article 7 (commencing with
9 Section 60119) is added to Chapter 1 of Part 33 of the
10 Education Code, to read:

11
12 Article 7. Provision of Sufficient Pupil Textbooks and
13 Instructional Materials
14

15 SEC. 5. Section 60119 of the Education Code is
16 amended to read:

17 60119. (a) Commencing with the 1998–99 fiscal year,
18 and for each fiscal year thereafter, the governing board
19 of a school district shall take the following actions:

20 (1) The governing board shall hold a public hearing or
21 hearings at which the governing board shall encourage
22 participation by parents, teachers, members of the
23 community interested in the affairs of the school district,
24 and bargaining unit leaders, and shall make a
25 determination, through a resolution, as to whether each
26 pupil in each school in the district has, or will have, prior
27 to the end of that fiscal year, sufficient textbooks or other
28 instructional materials, or both, in each subject that are
29 consistent with the content and cycles of the curriculum
30 framework adopted by the state board. *The cycle of the*
31 *curriculum framework, for the purposes of textbooks and*
32 *other instructional materials in English language arts,*
33 *including spelling and reading, history or social science,*
34 *science, and mathematics shall be available not later than*
35 *two years after the State Board of Education adopts full*

1 *sets of basic instructional materials for each of these*
2 *subjects that are aligned to standards adopted by the*
3 *State Board of Education in each of these subjects.*

4 (2) (A) If the governing board determines that there
5 are insufficient textbooks or other instructional materials,
6 or both, the governing board shall provide information to
7 classroom teachers and to the public setting forth the
8 reasons that each pupil does not have sufficient textbooks
9 or instructional materials, or both, and take any action,
10 except an action that would require reimbursement by
11 the Commission on State Mandates, to ensure that each
12 pupil has sufficient textbooks or other instructional
13 materials, or both, *consistent with the cycle required by*
14 *paragraph (1)* within a 60-day period from the date of the
15 determination.

16 (B) In carrying out subparagraph (A), the governing
17 board may use money in any of the following funds:

18 (i) Any funds available for textbooks or instructional
19 materials, or both, from categorical programs, including
20 any funds allocated to school districts that have been
21 appropriated in the annual Budget Act.

22 (ii) Any funds of the school district that are in excess
23 of the amount available for each pupil during the prior
24 fiscal year to purchase textbooks or instructional
25 materials, or both.

26 (b) The governing board shall provide 10 days' notice
27 of the public hearing or hearings held pursuant to
28 subdivision (a). The notice shall contain the time, place,
29 and purpose of the hearing, and shall be posted in at least
30 three public places in the school district.

31 (c) Except for purposes of Section 60252, governing
32 boards of school districts that receive funds for
33 instructional materials from any state source are subject
34 to the requirements of this section only in a fiscal year in
35 which the Superintendent of Public Instruction
36 determines that the base revenue limit for each school
37 district will increase by at least 1 percent per unit of
38 average daily attendance from the prior fiscal year.

39 ~~(d) With respect to any school district found to be in~~
40 ~~violation of this section, the Superintendent of Public~~

~~Instruction shall withhold 1 percent of the amount of revenue limit funds that otherwise would be apportioned to the school district for that school district's annual administrative funding that does not relate to any instructional programs until the school district has complied with the requirements of this section. This subdivision shall be operative only in a fiscal year when the Controller has transferred from the General Fund to the State Instructional Materials Fund at least the amount set forth in subdivision (a) of Section 60246.3.~~

~~(e)~~

(d) For the purposes of this article, the terms “governing board of a school district” and “governing board” are deemed to include county boards of education.

SEC. 6. Section 60240.7 is added to the Education Code, to read:

60240.7. (a) The annual audit of school districts and county offices of education conducted pursuant to Section 41020 shall include an audit of the extent of compliance with the requirements of Sections 60119, 60246, and 60246.5. The Superintendent of Public Instruction shall review these audits to ascertain whether the matters certified under Section 60246.5 by the school district or county office of education have been accomplished.

(b) (1) If the Superintendent of Public Instruction finds that a school district or county office of education has not *substantially* complied with Section 60119, 60246, or 60246.5, the superintendent shall withhold 1 percent of the amount of revenue limit funds that otherwise would be apportioned to the school district until the school district or county office of education has complied with these sections. This subdivision shall be operative only in a fiscal year when the Controller has transferred from the General Fund to the State Instructional Materials Fund at least the amount set forth in subdivision (a) of Section ~~60246.3~~. *Superintendent of Public Instruction shall purchase, and deliver to the appropriate schoolsites, textbooks and other instructional materials in quantities*

1 that will bring the school district or county office of
2 education into substantial compliance with Sections
3 60119, 60246, and 60246.5. The Superintendent of Public
4 Instruction shall deduct the cost of these materials and a
5 reasonable state administrative cost from the
6 apportionments made to the noncompliant school district
7 or county office of education.

8 (2) This subdivision shall be operative only in a fiscal
9 year when the amount of money from the General Fund
10 allocated for the purchase of textbooks and other
11 instructional materials exceeds forty dollars (\$40) per
12 unit of statewide average daily attendance.

13 SEC. 7. Chapter 3.5 (commencing with Section
14 60450) is added to Part 33 of the Education Code, to read:

15
16 Chapter 3.5. Standards-Based Instructional Materials

17
18 60450. It is the intent of the Legislature that school
19 districts use the resources provided pursuant to this
20 chapter and any other available resources to ensure that
21 pupils in kindergarten and grades 1 to 12, inclusive, be
22 provided with instructional materials in the core
23 curriculum areas of language arts, mathematics,
24 history/social science, and science that are aligned with
25 state standards as adopted by the State Board of
26 Education pursuant to Section 60605 in 1997 and 1998. It
27 is further the intent of the Legislature that the funding
28 provided pursuant to this article supplement and not
29 supplant funding for instructional materials provided
30 from other sources.

31 60450.5. (a) The State Department of Education
32 shall apportion funds appropriated for purposes of this
33 chapter on the basis of an equal amount per pupil
34 enrolled in public elementary schools and high schools,
35 excluding summer school, adult, and regional
36 occupational program and center enrollment, during the
37 preceding fiscal year, as certified by the Superintendent
38 of Public Instruction.

39 (b) For the purposes of this chapter, the term "school
40 districts" means school districts, county offices of

1 education, and charter schools, and the term “local
2 governing board” means the governing board of a school
3 district, the county board of education, or the governing
4 body of a charter school.

5 60451. Each school district shall expend funds
6 received pursuant to this chapter for the sole purpose of
7 purchasing instructional materials in the core curriculum
8 that are aligned to standards for pupils in kindergarten
9 and grades 1 to 12, inclusive, that meet all of the following
10 requirements:

11 (a) The instructional materials are aligned with
12 standards as adopted by the State Board of Education in
13 1997 or 1998.

14 (b) The instructional materials for pupils in
15 kindergarten and grades 1 to 8, inclusive, have been
16 adopted by the State Board of Education pursuant to this
17 chapter, using criteria developed subsequent to the
18 adoption of standards.

19 (c) The instructional materials for pupils in grades 9 to
20 12, inclusive, have been reviewed and approved, through
21 a resolution adopted by the local governing board, as
22 being aligned with the standards as adopted by the State
23 Board of Education in 1997 or 1998.

24 60451.5. (a) Each school district that receives funds
25 pursuant to this chapter shall purchase instructional
26 materials aligned to language arts, mathematics,
27 history/social science, or science standards from funds
28 appropriated for this purpose in the Budget Act of 1998
29 or the act that adds this article. Priority shall be given to
30 the purchase of mathematics instructional materials.

31 (b) Each school district that receives funds pursuant to
32 this chapter shall purchase instructional materials aligned
33 to standards in language arts, mathematics, history/social
34 science, or science from funds appropriated in the
35 1999–2000 fiscal year and the two subsequent fiscal years
36 for the purposes of this chapter.

37 60452. (a) Allowances received by school districts
38 pursuant to this chapter shall be deposited into a separate
39 account as specified by the Superintendent of Public
40 Instruction. These allowances, including any interest

1 generated by them, shall be used only for the purchase of
2 instructional materials pursuant to this chapter. Interest
3 posted to the account shall be based upon reasonable
4 estimates of monthly balances in the account and the
5 average rate of interest earned by other funds of the
6 school district.

7 (b) All purchases of instructional materials made with
8 funds from this account shall conform to law and the
9 applicable rules and regulations adopted by the State
10 Board of Education, and the superintendent of a school
11 district that purchases instructional materials with these
12 funds shall provide written assurance of this conformance
13 to the Superintendent of Public Instruction.
14 Commencing September 1, 1999, the Superintendent of
15 Public Instruction shall withhold the allowance
16 established pursuant to Section 60452.5 for any school
17 district that has failed to file a written assurance for the
18 prior fiscal year. The Superintendent of Public
19 Instruction may restore the amount withheld once the
20 school district provides the written assurance.

21 (c) The office of the Controller, in cooperation with
22 the State Department of Education, shall include
23 procedures to review compliance with this section in its
24 independent audit instructions.

25 60452.5. (a) In each of the fiscal years from 1999–2000
26 to 2001–02, inclusive, the sum of two hundred fifty million
27 dollars (\$250,000,000) is hereby appropriated from the
28 General Fund to the Superintendent of Public
29 Instruction for allocation to school districts pursuant to
30 this chapter. All funds appropriated for the purposes of
31 this chapter shall be allocated on the basis of an equal
32 amount per pupil enrolled in public elementary schools
33 and high schools, as set forth in Section 60450.5, and as
34 reported for the year prior to the allocation of funds.

35 (b) For the purposes of making the computations
36 required by Section 8 of Article XVI of the California
37 Constitution, the appropriation made by subdivision (a)
38 shall be deemed to be “General Fund revenues
39 appropriated for school districts,” as defined in
40 subdivision (c) of Section 41202 of the Education Code,

1 *for the 1999–2000, 2000–2001, and 2001–2002 fiscal year, as*
2 *appropriate, and included within the “total allocations to*
3 *school districts and community college districts from*
4 *General Fund proceeds of taxes appropriated pursuant to*
5 *Article XIII B,” as defined in subdivision (e) of Section*
6 *41202 of the Education Code, for the 2001–2002 fiscal year.*

7 *(c) The allocation made pursuant to subdivision (a)*
8 *shall be made no later than October 1 of each fiscal year.*

9 *60453. This chapter shall become inoperative on June*
10 *30, 2002, and as of January 1, 2003, is repealed, unless a*
11 *later enacted statute, which is enacted before January 1,*
12 *2003, deletes or extends the dates on which it becomes*
13 *inoperative and is repealed.*

14 ~~SEC. 7. Section 60246.3 is added to the Education~~
15 ~~Code, to read:~~

16 ~~60246.3. (a) Commencing with the 1999–2000 fiscal~~
17 ~~year, during each fiscal year the Controller shall transfer~~
18 ~~from the General Fund of the state to the State~~
19 ~~Instructional Materials Fund, an amount that when~~
20 ~~added to the amount transferred by Section 60246 shall~~
21 ~~equal a total of seventy-seven dollars and fifty cents~~
22 ~~(\$77.50) per pupil in the average daily attendance in the~~
23 ~~public elementary and secondary schools during the~~
24 ~~preceding fiscal year, as certified by the Superintendent~~
25 ~~of Public Instruction, except that this amount shall be~~
26 ~~adjusted annually by an amount equal to the percentage~~
27 ~~change determined pursuant to subdivision (b) of~~
28 ~~Section 42238.1.~~

29 ~~(b) The amount transferred pursuant to subdivision~~
30 ~~(a) shall include the designated percentage of the cash~~
31 ~~entitlements to be used to pay for unadopted state~~
32 ~~materials, tests, and in-service training.~~

33 ~~(c) Each school receiving funds under this section~~
34 ~~shall have library materials reflective of the academic~~
35 ~~needs of its pupils purchased at a rate that is no less than~~
36 ~~10 percent of the per-pupil funding provided under~~
37 ~~subdivision (a).~~

38 ~~SEC. 8. Section 60246.5 is added to the Education~~
39 ~~Code, to read:~~

~~60246.5. Commencing with the 1998-99 fiscal year, and each fiscal year thereafter, each school district and county office of education that receives funds pursuant to Sections 60246 and 60246.3 in excess of the amount received for this purpose in the 1997-98 fiscal year shall certify that it has accomplished all of the following:~~

~~(a) Each of its pupils has, for each subject at each grade level, basic instructional materials that are in accordance with the schedule for elementary instructional materials that has been most recently adopted by the State Board of Education.~~

~~(b) In each of the core curriculum areas, which include the English language, the arts, reading and spelling, mathematics, science, and history and social science, the basic instructional materials are aligned with standards adopted by the State Board of Education and have been purchased subsequent to the adoption of these standards and criteria for adoption of elementary instructional materials in these areas.~~

~~(c) Each pupil has the appropriate science materials necessary to carry out a science curriculum consistent with the standards adopted by the State Board of Education.~~

~~SEC. 9. Section 60247 of the Education Code is repealed.~~

~~SEC. 10. Section 60248 of the Education Code is amended to read:~~

~~60248. School district governing boards shall use the funds apportioned pursuant to Section 60246 solely for the purchase of instructional materials, as defined in Section 60010, for pupils in kindergarten and in grades 1 to 8, inclusive, in accordance with Sections 60200 and 60242. For pupils in grades 9 to 12, inclusive, textbooks and other instructional materials purchased with these funds shall be adopted in accordance with Section 60400.~~

~~SEC. 11.—~~

~~SEC. 8. It is the intent of the Legislature that the method of allocating funds based on pupil enrollment in Section 60450.5 of the Education Code is set forth in that provision only for the purposes of Chapter 3.5~~

1 (*commencing with Section 60450*) of Part 33 of the
2 *Education Code*.

3 *SEC. 9.* Notwithstanding Section 17610 of the
4 Government Code, if the Commission on State Mandates
5 determines that this act contains costs mandated by the
6 state, reimbursement to local agencies and school
7 districts for those costs shall be made pursuant to Part 7
8 (*commencing with Section 17500*) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed one million
11 dollars (\$1,000,000), reimbursement shall be made from
12 the State Mandates Claims Fund.

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

17 ~~*SEC. 12.*~~

18 *SEC. 10.* This act shall become operative on July 1,
19 1998, or on the date that it is chaptered, whichever occurs
20 last.

21 ~~*SEC. 13.*~~

22 *SEC. 11.* This act is an urgency statute necessary for
23 the immediate preservation of the public peace, health,
24 or safety within the meaning of Article IV of the
25 Constitution and shall go into immediate effect. The facts
26 constituting the necessity are:

27 In order for the important reforms in this act to take
28 effect with the commencement of the 1998-99 fiscal year,
29 it is necessary that this act take effect immediately.

